

Unauthorized Disclosure of Classified Information

Argument: Leaks of national security secrets are harmful. This bill should be opposed because sources who unlawfully leak classified information may be shielded by journalists.

Response:

- The Act requires the identification of a source of a leak of properly classified information if the leak has caused or will cause harm to national security.
- Why does the Act only allow for investigations of leaks of properly classified information? There is too much information classified in this town – and agencies have come up with new terms to keep government information secret. Federal government classification activity rose 44 percent in 2006 to a record 20.5 million classification decisions, according to the Information Security Oversight Office in a report to the President. The costs of keeping these secrets also rose to a new record for government and private industry -- \$9.5 billion.
- According to the latest report issued by Information Security Oversight Office (ISSO), the agency charged with keeping track of security classifications, 15.6 million documents – not pages – were classified in 2004.
- Rodney P. McDaniel, Executive Secretary of the National Security Council under President Reagan: Only 10 percent of classification was for “legitimate protection of secrets.” 1997 Moynihan Commission Report, at 36.
- Governor Kean, who was Chair of the 9/11 Commission: “Three-quarters of what I read that was classified shouldn’t have been.” Cox News Service, July 21, 2004.
- Courts have wide experience in assessing whether information has been properly classified. When ruling in these cases, the courts give significant deference to the government’s determination. When interpreting other statutes, such as the Freedom of Information Act, courts give “deference to reasoned and detailed [government] explanations of that classification decision,” and seek merely to ensure that “the reasons for classification are rational and plausible ones.” *McGehee v. Casey*, 718 F.2d 1137, 1148-49 (D.C. Cir. 1983).
- Why should the government have to make a showing that a leak has caused or will cause harm to national security? Because, at times, there are unauthorized leaks that provide important information to the public – including Members of Congress – on government abuse, wrongdoing or even threats to public safety. Consider such stories as the treatment of Iraqi prisoners at Abu Ghraib, fraud and abuse in the defense industry, the exposure of workers at a Kentucky uranium plant to excessive amounts of plutonium and uranium. These stories of great public interest were made possible by confidential sources discussing classified information.